

**CHIROPRACTIC EXAMINING BOARD
MADISON, WI
MINUTES
JANUARY 16, 2003**

PRESENT: Susan Feith, Char Glocke, James Greenwald, Brouck Sleight, James Rosemeyer, Dale Strama

STAFF PRESENT: Kimberly Nania, John Schweitzer, Grace Schwingel, Gail Pizarro, DOE Staff

GUESTS: Ron Hermes, WPTA
James Weber, D.C., appointed to replace James Greenwald
Steven Conway, Allied Health, appointed to replace Dale Strama
Daniel Icenogle, Attorney for Dr. LaBlanc
Dr. Michael E. LaBlanc
Dyanna Tillinger, WCA

CALL TO ORDER

Dale Strama, Chair, called the Board to order at 8: 05 a.m. A quorum of 6 members was present.

APPROVAL OF AGENDA

Amendments to Agenda: Stipulation for Jason A. Romano, D.C. - 99 CHI 052
Application Review for licensure by endorsement - Randall Whittman
Additional information in the matter regarding Michael LaBlanc, D.C.
2 addendums discussion of jurisprudence exam – Open C 2
Exam Challenges; Review forms for the 2003 retake exam; CE Audit

MOTION: James Greenwald moved, seconded by Brouck Sleight, to approve the agenda as amended. Motion carried unanimously.

ELECTION OF OFFICERS

MOTION: James Greenwald moved, seconded by Char Glocke, to hold elections again in February when the two new members are confirmed to the Board. Motion carried unanimously.

MOTION: Char Glocke moved, seconded by James Greenwald, to retain the current officers of the Board until the next meeting. Chair: Dale Strama; Vice Chair: Bevier Sleight; Secretary: James Rosemeyer. Motion carried unanimously.

APPROVAL OF MINUTES OF DECEMBER 19, 2002

The Board made some revisions to the minutes and amendments to the 12/19/02 minutes will be made by Grace Schwingel as directed by the Board.

MOTION: Brouck Sleight moved, seconded by Susan Feith, to approve the minutes of December 19, 2002 as amended. Motion carried unanimously.

ADMINISTRATIVE REPORT

Kimberly Nania announced that Governor Doyle has appointed Donsia Strong Hill as Secretary to the Department of Regulation & Licensing.

PRESENTATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED AFTER MAILING OF AGENDA

JASON A. ROMANO, D.C.

Jack Zwieg reviewed the case of Jason Romano, D.C. The Board will deliberate on this case in Closed Session.

ORAL ARGUMENTS IN THE MATTER CONCERNING MICHAEL R. LABLANC, DC

DOE Attorney, James Polewski, presented information in the matter concerning Michael R. LaBlanc, D.C. Dr. LaBlanc's attorney, Daniel Icenogle, responded on behalf of Dr. LaBlanc. The Board will deliberate on this matter in Closed Session.

REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND ADMINISTRATIVE RULES AND PRESS RELEASES

None

DISCUSSION OF WHETHER THE BOARD SHOULD REVIEW AND DETERMINE THE SCIENTIFIC VALIDITY OF SPECIFIC TECHNIQUES

The Board discussed whether there is a place for the use of electro diagnostic techniques, hyperbaric chambers, thermal warming techniques, and cool lasers in the profession of chiropractic. The Board would like to investigate these techniques further before making any decision as to whether these techniques are appropriate in chiropractic practice.

MOTION: Brouck Sleight moved, seconded by Susan Feith, to contact the state association, the WCA, to request consideration by its Clinical Advisory Committee (CAC) concerning whether the use of cold laser therapy is an appropriate technique for chiropractic practice in Wisconsin. The Board will begin an investigation of its own, into the literature concerning this technique in order to have a better basis for addressing this issue again in the future and will also contact the ACA. Motion carried unanimously.

The Board will gather more information on cold laser therapy to help it decide on an appropriate position for the Board to take on this issue. Steven Conway will contact the ACA. Legal Counsel, John Schweitzer, will contact the WCA. Brouck Sleight will do research on the literature involving cold laser therapy.

PRECEPTOR APPROVAL

The Board had a discussion involving the criteria for approving preceptors. Kimberly Nania will request staff to follow-up with DOE to clarify at what point in the process a case would be considered “pending disciplinary action” to ensure that all preceptor applicants meet the statutory requirements to be a preceptor.

MOTION: James Rosemeyer moved, seconded by James Greenwald, to approve the following 5 preceptors: Bevier Sleight, Steven Silverman, Roy Ostenson, William Melby, and Bryan Gerondale. Bevier “Brouck” Sleight abstained. Motion carried.

PRECEPTOR APPROVAL FOR REQUESTS RECEIVED AFTER THE PRINTING OF THE AGENDA

None

DISCUSSION OF WHETHER TO CREATE A REQUIREMENT OF 5 YEARS OF WISCONSIN PRACTICE FOR UTILIZATION REVIEWS

James Rosemeyer will contact the WCA to get more information regarding the issue of utilization reviews in order to assist the Board in meeting its responsibility to ensure that patients get the care they need.

DISCUSSION OF WHETHER THE BOARD NEEDS IN THE FUTURE TO REVIEW ROUTINE RECIPROCAL APPLICATIONS, I.E., IF THE APPLICANT HAS PASSED EITHER (1) PART IV OR (2) AN EXAM THAT INCLUDES X-RAY INTERPRETATION, ADJUSTMENT AND TECHNIQUE, AND PHYSICAL AND CLINICAL DIAGNOSIS

The Board agreed to immediately change the applications to reflect the changes in the licensure process; more specifically, candidates are required to pass all four parts of the NBCE and provide evidence of having already graduated, before they are eligible to take the jurisprudence exam.

ADMINISTRATION OF THE JURISPRUDENCE EXAM

Gail Pizarro addressed the Board with information regarding decisions it needs to make with regard to Wisconsin’s Jurisprudence Exam. The Exam Office informed the 19 new prospective candidates who had not yet taken the Wisconsin state exam that they are eligible to come in and take Wisconsin’s Jurisprudence Exam on 2/13/03. There was a discussion of the factors involved in putting on a jurisprudence exam – costs, obtaining proctors and a site to give the exam. Gail Pizarro reviewed the advantage of a mail-home exam. The purpose of the exam is to educate applicants who will need to go through the profession’s code book in order to answer the questions correctly. Gail Pizarro reviewed options the Board has, which include:

1) to provide an open-book, take-home exam;
2) to provide a closed-book, on-site exam by appointment on a date to be given, either on a monthly basis or on a quarterly basis.
It was recommended that the jurisprudence exam be the last step in the exam process and that it be given on a monthly basis.

Legal Counsel, John Schweitzer, noted that the Department would not approve having professional or lobbying organizations on site on the date an exam is given.

MOTION: Susan Feith moved, seconded by Char Glocke, to provide a closed-book jurisprudence exam to be given on site, once a month. Motion carried unanimously.

DISCUSSION OF THE USE OF HYPERBARIC CHAMBERS BY CHIROPRACTORS

The Board reviewed the letter Legal Counsel, John Schweitzer, wrote to the individual with a question on the use of hyperbaric chambers as a chiropractic technique.

REPORT ON THE ELECTRO DIAGNOSTIC EVALUATION

Brouck Sleight reported on electro diagnostic evaluation procedure. The Board will discuss this issue further at its next meeting on February 27th.

REVIEW AND DISCUSSION RE: REVISIONS OF THE CCE STANDARDS FOR CHIROPRACTIC PROGRAMS AND INSTRUCTIONS

Noted

CORRESPONDENCE FROM GREGORY DANIELS, DC EXTENSION OF CONTINUING EDUCATION CREDITS

MOTION: Brouck Sleight moved, seconded by Char Glocke, to deny the request of Gregory Daniels, D.C. for an extension to complete his CE requirements. The Board authorized Legal Counsel, John Schweitzer, to write a letter to Dr. Daniels indicating that Dr. Daniels did not provide adequate reasons for an extension and must stop practicing until he completes his CE requirements. Motion carried unanimously.

CORRESPONDENCE AND PHONE INQUIRIES BY LEGAL COUNSEL

Legal Counsel, John Schweitzer, reviewed a letter he had received from Dr. Kari Lund regarding approved classes for continuing education credit for sEMG training. Currently there are no approved classes for this training in Wisconsin. The WCA will be offering classes for sEMG training in March 2003.

MOTION: Brouck Sleight moved, seconded by James Greenwald, to direct Legal Counsel, John Schweitzer, to respond to Dr. Kari Lund. Motion carried unanimously.

CLOSED SESSION

MOTION: Dale Strama moved, seconded by James Rosemeyer, to adjourn to closed session pursuant to Wisconsin state statutes 19.85(1)(a)(b)(f) and (g) to discuss possible reconsideration of the Harold J. Dykema, D.C., decision, to deliberate on the proposed decision in the matter of disciplinary proceeding against Michael R. LaBlanc, D.C., application review for licensure by endorsement by Miriam Mikhael, D.C., and Randall Whittman, D.C., the Division of Enforcement Case Status Report and consultation with Legal Counsel, discussing the December 5, 2002 exam challenges. The Board agreed to include James Weber, D.C. and Steven Conway in the Closed Session meeting as they will be on the Board as voting members at the Board's next meeting in February. Motion carried by roll call vote: Susan Feith-yes, Char Glocke-yes, James Greenwald-yes, Brouck Sleight-yes, James Rosemeyer-yes, Dale Strama-yes.

Open Session recessed at 10:50 a.m.

RECONVENE INTO OPEN SESSION IMMEDIATELY FOLLOWING CLOSED SESSION

MOTION: James Rosemeyer moved, seconded by Char Glocke, to reconvene into open session at 12:30 p.m. Motion carried unanimously.

VOTE ON ITEMS CONSIDERED OR DELIBERATED ON IN CLOSED SESSION

DELIBERATION OF PROPOSED STIPULATIONS THAT MAY BE SIGNED AFTER MAILING OF AGENDA

JASON A. ROMANO, D.C.

MOTION: Char Glocke moved, seconded by James Greenwald, to adopt the Findings of Fact, Conclusions of Law, and Order, and approve the Stipulation for Jason Romano, D.C. Susan Feith, case advisor, abstained. Motion carried.

DELIBERATION OF PROPOSED ADMINISTRATIVE WARNINGS RECEIVED AFTER MAILING OF AGENDA

None

DELIBERATION OF MONITORING ISSUES THAT MAY BE RECEIVED AFTER MAILING OF AGENDA

None

**DISCUSSION OF POSSIBLE RECONSIDERATION OF THE DECISION REGARDING
HAROLD J. DYKEMA, D.C.**

MOTION: James Greenwald moved, seconded by Char Glocke, to vacate the Board's action adopting the ALJ's Proposed Decision in the matter of the Disciplinary Proceedings against Harold J. Dykema, D.C., and direct, under the authority of section 227.46 (3)(a) of the Wisconsin Statutes, that the ALJ's decision, to be made following his consideration of the Respondent's objections and closing argument and the complainant's response, be the Final Decision in this case. Brouck Sleight abstained and was out of the room during the discussion. Motion carried.

**DELIBERATION OF PROPOSED DECISION IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST MICHAEL R. LABLANC, DC (LSO209131CH1)**

Brouck Sleight was out of the room during the Board's deliberation of the case involving Michael R. LaBlanc, D.C. and abstained from voting in this matter.

MOTION: Char Glocke moved, seconded by Susan Feith, to suspend Michael R. LaBlanc, D.C. for one month and require him to attend an additional 12 hours in a course dealing with scoliosis, in addition to the Diplomate course, and to pay all fees minus any fees for the expert witness after September 18, 2002. The basis for a one-month suspension rather than a reprimand is because of the gravity of the error in this case. Brouck Sleight abstained. 5 ayes, 0 nays. Motion carried.

APPLICATION REVIEW FOR LICENSURE BY ENDORSEMENT

MIRIAM M. MIKHAEL, D.C.

MOTION: James Rosemeyer moved, seconded by James Greenwald, to approve the application by endorsement of Miriam M. Mikhael, D.C. Motion carried unanimously.

RANDALL WHITTMAN, D.C.

Before it makes a Final Decision in the matter concerning Randall Whittman, D.C., the Board directed Legal Counsel, John Schweitzer, to obtain more information from the Arizona Board as to the reason for the \$500 fine on behalf of Randall Whittman, D.C.

DIVISION OF ENFORCEMENT – CASE STATUS

MOTION: Brouck Sleight moved, seconded by James Rosemeyer, to close cases **02 CHI 051** and **02 CHI 012** for insufficient evidence. Motion carried unanimously.

CONSULT WITH LEGAL COUNSEL

Noted

EXAM CHALLENGES

MOTION: James Greenwald moved, seconded by James Rosemeyer, indicating that two exams were reviewed. One score was changed, but it did not affect the outcome. Both candidates received a failing grade on the exam after it was reviewed, and will sign up to retake the exam. Motion carried unanimously.

It was noted that Dr. Greenwald and Dr. Sleight will both administer each exam back to back beginning at 8:00 a.m. on February 13, 2003.

INFORMATION ITEMS

Char Glocke indicated she has a new e-mail address: cglocke@laraweb site.com

OTHER BOARD BUSINESS

FRED BARGE, D.C.

The Board reviewed the request of Dr. Fred Barge, who is not currently practicing in the State of Wisconsin, as to whether or not he would have to take CPR continuing education credits in order to maintain his Wisconsin license. The Board indicated it would like to revise its rule regarding CPR requirements in the future so that in special circumstances, the Board could exempt an individual who is not practicing in Wisconsin from being required to meet the CPR requirement.

MOTION: Brouck Sleight moved, seconded by Char Glocke, to state that the Board directed Legal Counsel, John Schweitzer, to respond to Dr. Barge telling him that he is required to take CPR in order to retain his license. Motion carried unanimously.

The Board would like to invite Barbara Showers to its next meeting in February to discuss the CE audit and the number of applications the Board would like to audit.

The Board thanked Dr. Dale Strama and Dr. James Greenwald for their service to the State and to the people of Wisconsin through their exemplary service on the Chiropractic Examining Board.

ADJOURN

MOTION: James Greenwald moved, seconded by Brouck Sleight, to adjourn the meeting at 12:45 p.m. Motion carried unanimously.

Next Meeting: Thursday, February 27, 2003